

REMARKS

The present remarks are submitted as a response to a final office action issued on March 2, 2010. The application consists of claims 1-13 and 16-29.

Claim rejections USC 103

Claims 1, 4-11, 13, 16-22 and 26-29 stand rejected under 35 USC 103(a) as being unpatentable over Solvinto (FR 2532878) in view of Shalev et al. (WO 03/009976).

Claims 1-13 and 16-29 stand rejected under 35 USC 103(a) as being unpatentable over Iderosa (US 5,065,515) in view of Solvinto, Ringler et al (US 2002/0151881) and Shalev.

According to the Examiner, Solvinto (alone or in combination with Iderosa and Ringler) discloses all of the claimed elements except for the following features of apparatus claim 1 "a motion detector adapted to detect motion of the hair cutting head on the skin surface" and "wherein burning of the skin surface is prevented due to one or more of heating the elongated heated wire only when motion is detected by said motion detector and removal of the elongated heated wire from skin contact when motion is not detected by said motion detector" and similar features in method claim 13.

The Examiner further contends that the missing features are found in Shalev. Applicants respectfully submit that the invention date of the present application is prior to the first publication date of Shalev and therefore Shalev does not qualify as prior art under section 102.

Shalev was first published on February 6, 2003 which is less than one year before the priority date of the present application, March 13, 2003.

Applicants file herewith a declaration under 37 CFR 1.131 by Dr. Paul Fenster who is a registered patent agent and was involved in the preparation of the present application and the applications from which the present application is a continuation-in-part of. In the declaration, Dr. Fenster states that the preparation of the PCT applications from which the present application is a continuation-in-part of have been diligently pursued from before February 6, 2003, the priority date of Shalev.

Dr. Fenster further states in the attached declaration, that the first stages of the draft of the application, at least from December 24, 2002, included the feature of a motion detector.

Accordingly, it is submitted that Shalev does not qualify as prior art under section 102.

Applicants further note that Shalev was first cited in the present office action. Therefore, the declaration by Dr. Paul Fenster could not be filed by applicants before the present response.

In view of the declaration, applicants respectfully request that the Examiner withdraw the rejection and allow claims 1-13 and 16-29. A prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

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Enclosures:

- Request for Continued Examination (RCE)
- Executed Declaration of Paul Fenster
- Annex A
- Annex B
- Annex C